

III. REMARKS

A. The Fittges Reference

In regard to claim 33, Fittges et al, U.S. Pat. 6,754,648 ("Fittges") was added to a combination Harvey Brydon, "Powerfail Recovery" Dec. 28, 1995 ("Brydon") in view of Nathan et al., U.S. Pat. 6,647,492 ("Nathan") further in view of Connelly et al., U.S. Patent No. 6,594,786 ("Connelly") to reject the claim under 35 USC Sec. 103(a). Fittges has nothing to do with the claimed method of shutting off a computer, let alone tracking why a computer was shut down. The applicant agrees Fittges demonstrates saving data in XML format but there is no reason someone looking to solve the problem of the pending application would have looked to Fittges. The Office action might as well cite to a computer dictionary with an XML definition because the motivation to combine with Fittges is the same as the motivation to combine with a dictionary – both contain the proper term but there is no motivation as neither are related to the pending claims. There simply is no motivation to combine Fittges with any of the other references.

B. Proposed Combination Does Not Disclose All the Elements

For claims 6, 8, 13, 14, 27,-32, the proposed combination of references does not result in all the claimed elements.

MPEP section 2143.03, entitled "All Claim Limitations Must Be Taught or Suggested" makes it clear that all the elements in a claim must be taught or suggested by a proposed combination. In relevant part, it states:

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any

claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Claims 6, 7, 8, 13, 14, 27,-32 all contain elements that are not in the prior art, even in the combination of multiple references. Detailed explanations follow below in relation to each of these claims.

C. The claims elements are not inherent in the combination

In addition, the Office action states or implies that elements in claims 6, 8, 13, 27-32 are inherent in the proposed combinations. MPEP section 2112 addresses the use of inherency in rejecting claims. As MPEP section 2112 states, the examiner must provide rationale or evidence tending to show inherency.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); In re Oelrich, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (The claims were drawn to a disposable diaper having three fastening elements. The reference disclosed two fastening elements that could perform the same function as the three fastening elements in the claims. The court construed the claims to require three separate elements and held that the reference did not disclose a separate third fastening element, either expressly or inherently.).

The Office action has failed to establish that the missing elements actually are inherent in the proposed combination. As stated in the MPEP, that an element MAY be in the combination is not enough to demonstrate that an element IS in the prior art.

D. There is no motivation to combine Skibinski with the other references because the combination would change the principle of operation of Skibinski

Claims 1-14, and 19-22 all call for a combination involving Brydon, in view of Nathan further in view of Skibinski et al. (“Skibinski”) (claims 4, 7, 10-12, 14 and 22 also add Connelly to the combination). MPEP sec. 2143.01 entitled “The Proposed Modification Cannot Change the Principle of Operation of a Reference” states that a *prima facie* case of obviousness is insufficient if the proposed modification of the prior art would change the principle of operation of the prior art invention being modified.

The provided motivation to combine Brydon, Nathan and Skibinski is not valid in view of the language of the claims. In reference to claim 1, for example, the Office action states:

“at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan and Skibinski because they all directed [sic] to the teaching of shutting down/logging off the system.”

Claim 1 calls for “the shutdown of the computer including the shutdown of the operating system.” The logging off as described in Skibinski does not shutdown the computer. The computer, and most likely, the operating system, is still operating when a user logs off. The nature of the problem described in the pending claims has to do with shutting down a computer. Accordingly, someone concerned with tracking the reasons a computer was shut down would not look to Skibinski because in Skibinski, the computer is still operating. Accordingly, the rationale provided for the combination of Brydon, Nathan and Skibinski fails because the proposed modification would change Skibinski from a system where the computer stayed on to a system where the computer would be turned off.

E. There is no motivation to combine Connelly with the other references because the combination would change the principle of operation of Connelly

Claims 4, 7, 10-12, 14-18, 22-33 all call for combining Connelly with other references. MPEP sec. 2143.01 entitled "The Proposed Modification Cannot Change the Principle of Operation of a Reference" states that a prima facie case of obviousness is insufficient if the proposed modification of the prior art would change the principle of operation of the prior art invention being modified. The provided motivation to combine Brydon, Nathan and Connelly is not valid in view of the language of the claims. In reference to claim 18, for example, the Office action states:

"As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan and Connelly because they are directed to the teaching of shutting down a system and Connelly teaches the details of the storing of the computer name which is not explicitly taught in Brydon and Nathan's systems."

Claim 18, which is dependent from claim 15, calls for "taking a snapshot comprising at least one parameter of each user-mode process." Connelly does not disclose or teach reviewing user mode processes. Connelly is at a higher level, at best noting that a shutdown was an application failure. There is no teaching to look deeper into the user mode processes. The nature of the problem described in the pending claims has to do with analyzing just these deeper processes. Accordingly, someone concerned with tracking the reasons a computer was shut down would not look to Connelly because in Connelly, the method is at a much higher level and the required detail is missing. Accordingly, the rationale provided for the combination of Brydon, Nathan and Connelly fails because the proposed modification would change Connelly from a simple system able to monitor lots of nodes to a more complicated system where the user mode processes of several systems would have to be tracked.

F. Claim Specific Remarks

CLAIM 1

Regarding claim 1, the Office action states:

As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan and Skibinski because they are all directed to the teaching of shutting down/logging off the system.

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 2

Regarding claim 2, the Office action states:

Nathan further teaches a computer-readable medium having stored thereon computer-executable instructions for performing the method of claims 1 and 19, respectively (108, fig. 1).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 3

Regarding claim 3, the Office action states:

Skibinski further teaches retrieving the plurality of reasons from a system database (col. 3, lines 23-24); and, presenting the retrieved reasons to the user (16, fig. 3).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 4

Regarding claim 4, the Office action states:

Connelly teaches that the reasons are retrieved from entries located in a system database (col. 7, lines 41-42, Table 1), wherein each reason entry indicates whether the reason is to be displayed during a shutdown¹ of the computer (col. 7, lines 36-42), or during a restart² of the computer following a shutdown (col. 7, lines 44-52) in order to improve system recovery times by quickly identifying unavailable systems (col. 1, line 67-Col. 2, line 1).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 5

Regarding claim 5, the Office action states:

Skibinski further teaches at least one of the plurality of reasons is custom-defined (col. 2, lines 19-20).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 6

Regarding claim 6, the Office action states:

¹ Each reason in Table 1 indicates whether the shutdown reason is planned or unplanned and, as a result, planned shutdown reasons will be displayed during a shutdown of the computer.

² Each reason in Table 1 indicates whether the shutdown reason is planned or unplanned and, as a result, unplanned/crash reasons will be executed during a restart of the computer following a shutdown.

Brydon, Nathan and Skibinski teach all the limitations of claims 1. However, Brydon, Nathan and Skibinski do not explicitly teach receiving from the user a typed-in description of at least one reasons for the shutdown and storing the typed-in description in the memory. Specifically, Nathan teaches storing the shutdown reason in the memory (col. 7, lines 20-22). As such, a routineer [sic] in the art would recognize that such feature is inherent in Brydon, Nathan and Skibinski's systems.

As described in III.B, for claim 6, the proposed combination of references does not result in all the claimed elements. None of the cited references disclose receiving a typed in reason for the shutdown as claimed. Further, as described in III.C, the Office action has not met its burden for proving the element is inherent in the combination of references. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 7

Regarding claim 7, the Office action states:

Brydon, Nathan and Skibinski do not explicitly teach receiving from the user a selection of whether the shutdown was planned or unplanned, and storing the planned or unplanned selection in the memory. Specifically, Nathan teaches storing shutdown reasons in a memory (col. 7, lines 20-22) regardless of whether the reasons in planned or unplanned.

Connelly teaches receiving from the user a selection of whether the shutdown was planned or unplanned (col. 15, lines 64-65 along with Table 1). Connelly further teaches storing the planned or unplanned selection in the memory (col. 7, lines 36-41) in order to improve system recovery times by quickly identifying unavailable systems (col. 1, line 67-col. 2, lines 1). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan, Skibinski and Connelly because they are directed to the teachings of shutting down/logging off the system and Connelly teaches details of the planned and unplanned shutdown which is not explicitly taught by Brydon, Nathan or Skibinski's systems.

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Furthermore, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 8

Regarding claim 8, the Office action states:

Skibinski further teaches that the user initiates the log-off of the system (col. 3, lines 22-23) and selects one or more reasons for logging off the system at a remote system (col. 3, lines 26-27) that is in communication with the computer being logged off (col. 3, lines 19-21). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Skibinski to allow the system to perform the same tasks in a shutdown mode.

As described in III.B, for claim 8, the proposed combination of references does not result in all the claimed elements. None of the cited reference disclose saving the data when the computer is shutdown as opposed to a mere log-off as described in Skibinski. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 9

Regarding claim 9, the Office action states:

Brydon further teaches prompting the user to enter the shutdown reasons (page 5, "What is the reason for this shutdown") in response to the user initiating a shutdown of the computer (page 1, "*****Start WHYBOOT>COM," lines 13-14).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 10

Regarding claim 10, the Office action states:

Connelly teaches prompting the user to enter the shutdown reason in response to the user restarting the computer subsequent to the computer being shutdown (col. 7, lines 48-49, lines 51, 52).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 11

Regarding claim 11, the Office action states:

Connelly teaches that the reason is received via a command line interface (col. 7, line 37).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 12

Regarding claim 12, the Office action states:

.....Connelly teaches reason code (col. 7, Table 1, Cause #).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 13

Regarding claim 13, the Office action states:

Skibinski further teaches receiving a user indication of a remote machine that is being logged-off (col. 3, lines 26-29). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Skibinski to allow the system to perform the same tasks in a shutdown mode.

As described in III.B, for claim 13, the proposed combination of references does not result in all the claimed elements. None of the reference disclose saving the data when the computer is shutdown as opposed to a mere log-off as described in Skibinski. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 14

Regarding claim 14, the Office action states:

Brydon, Nathan and Skibinski do not explicitly teach that determining, based on the user specified selection, whether the shutdown is planned or unplanned, and if the shutdown is determined to be unplanned, performing the capturing step. Specifically, Nathan teaches the capturing step regardless of whether the shutdown is planned or unplanned (col. 7, lines 17-18). Connelly teaches a method to determining, based on the user specified selection, whether the shutdown is planned or

unplanned³ (col. 7, lines 37-41 along with Table 1). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan, Skibinski and Connelly because they are directed to the teachings of shutting down/logging off the system and Connelly teaches the details of the planned or unplanned which is not explicitly taught by Brydon, Nathan and Skibinski's systems.

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Further, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 15

Regarding claim 15, the Office action states:

At the time of the invention, a routineer in the art would recognize that Nathan's system can easily be modified to only take the snapshot, taught by Nathan when the shutdown is unplanned, taught by Connelly.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 16

Regarding claims 16 (and 24), the Office action states:

Nathan further teaches a computer-readable medium having stored thereon computer-executable instructions for performing the method of claims 15 and 23, respectively.

³ Planned downtime results from scheduled activities such as backup, maintenance, and upgrades. Unplanned downtime is the result of an unscheduled outage such as a system crash, hardware or software failure, or environmental incident such as loss power or natural disaster.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 17

Regarding claim 17, the Office action states:

Brydon, Nathan and Connelly teach all the limitations of claim 15. Connelly further teaches that the receiving step further comprises receiving the name of the computer that is being shutdown.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 18

Regarding claim 18, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach the storing step further comprising storing the snapshot on a memory of the named computer. Specifically, Nathan teaches storing the snapshot on a memory (col. 7, lines 17-20). Connelly teaches storing the name of the system that is being shutdown (Fig. 8F, ENTITY). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan and Connelly because they are directed to the teaching of shutting down a system and Connelly teaches the details of the storing of the computer name which is not explicitly taught in Brydon and Nathan's systems.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 19

Regarding claim 19, the Office action states:

As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan and Skibinski because they are all directed to the teaching of shutting down/logging off the system.

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 20

Regarding claim 20, the Office action states:

Nathan further teaches a computer-readable medium having stored thereon computer-executable instructions for performing the method of claims 1 and 19, respectively (108, fig. 1).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 21

Regarding claim 21, the Office action states:

Brydon further teaches in response to the user initiating the shutdown of the computer (page 1, “*****Start WHYBOOT>COM,” lines 13-14), prompting the user to enter the shutdown reason (page 5, “What is the reason for this shutdown”).

As described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski.

Accordingly, the Office action fails to make the required prima facie case.

CLAIM 22

Regarding claim 22, the Office action states:

Connelly teaches that in response to the user rebooting (col. 7, line 44) the computer after an unexpected shutdown, prompting

user t enter the reason for the unexpected shutdown (col. 7, lines 51-52).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. In addition, as described in section III.D, it is improper to combine Skibinski with Brydon and Nathan because the combination would change the principle of operation of Skibinski. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 23

Regarding claim 23, the Office action states:

Brydon, Nathan and Connelly teach all the limitations of claim 15. As such, claim 23 is rejected with the same reference citations and rationale as claim 15.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 24

Regarding claim 24, the Office action states:

Nathan further teaches a computer-readable medium having stored thereon computer-executable instructions for performing the method of claims 15 and 23, respectively.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 25

Regarding claim 25, the Office action states:

Connelly further teaches prompting the user to select whether the shutdown is planned or unplanned (col. 7, lines 38-39,

Table 1); and storing the planned or unplanned selection in the log file (col.7, line 39).

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 26

Regarding claim 26, the Office action states:

Nathan further teaches at least one pagefile parameter (col. 7, lines 19-20) and at least one system parameter (col. 7, lines 17-18). Regarding claim 27, Brydon, Nathan and Connelly do not explicitly teach that at least one pagefile parameter comprises a peak utilization amount of a page file.

As described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the Office action fails to make the required prima facie case.

CLAIM 27

Regarding claim 27, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that at least one pagefile parameter comprises a peak utilization amount of a pagefile. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include peak utilization amount in the pagefile.

As described in III.B, for claim 27, the proposed combination of references does not result in all the claimed elements. None of the cited references discloses that the at least one pagefile parameter comprises a peak utilization amount of the pagefile as claimed. In addition, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 28

Regarding claim 28, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that at least one system parameter comprises an amount of an operating system kernel in a volatile memory at the time of shutdown. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include an amount of an operating system kernel in a volatile memory.

As described in III.B, for claim 28, the proposed combination of references does not result in all the claimed elements. None of the cited references discloses that the at least one system parameter comprises an amount of an operating system kernel in a volatile memory at the time of shutdown as claimed. In addition, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 29

Regarding claim 29, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that the snapshot comprises for each user-mode process, an amount of memory utilized by the process. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include the amount of memory utilized by the process in the snapshot.

As described in III.B, for claim 29, the proposed combination of references does not result in all the claimed elements. None of the cited references disclose that the snapshot comprises for each user-mode process, an amount of memory utilized by the process as claimed. In addition, as described in section III.E, it is improper to combine Connelly with

Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 30

Regarding claim 30, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that the snapshot comprises, for each user-mode process, a relative priority of the process. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include a relative priority of the process for each user-mode in the snapshot.

As described in III.B, for claim 30, the proposed combination of references does not result in all the claimed elements. None of the cited references disclose that the snapshot comprises, for each user-mode process, a relative priority of the process as claimed. In addition, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 31

Regarding claim 31, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that the snapshot comprises, for each user-mode process, a number of pointers to blocks of memory utilized by the process. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include a number of pointers to blocks of memory utilized by the process for each user-mode process in the snapshot.

As described in III.B, for claim 32, the proposed combination of references does not result in all the claimed elements. None of the cited references disclose that the snapshot comprises, for each user-mode process, a number of pointers to blocks of memory utilized by the process as claimed. In addition, as described in section III.E, it is improper to combine

Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 32

Regarding claim 32, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that the snapshot comprises for each user-mode process, a number of threads of execution associated with the process. As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Brydon, Nathan and Connelly to include a number of threads of execution with the process for each user-mode in the snapshot.

As described in section III.B, the proposed combination of references does not result in all the claimed elements. In addition, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

CLAIM 33

Regarding claim 33, the Office action states:

Brydon, Nathan and Connelly do not explicitly teach that the snapshot comprises extensible markup language (XML). Fittges teaches storing data in extensible markup language (XML) (col. 4, lines 53-59). As such, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Brydon, Nathan, Connelly and Fittges because they are directed to the teaching of storing data and Fittges teaches the details of storing the data in XML format.

As described in section III.A, Fittges has nothing to do with shutting off a computer, let alone tracking why a computer was shut down. There simply is no motivation to combine Fittges with any of the other references. In addition, as described in section III.E, it is improper to combine Connelly with Brydon and Nathan because the combination would

change the principle of operation of Connelly. Accordingly, the rejection fails to make a prima facie case.

IV. CONCLUSION

In view of the above amendment and remarks, applicant believes the pending application is in condition for allowance.

Our check in the amount of \$120.00 covering the fee for a one-month extension of time is enclosed. The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 13-2855, under Order No. 30835/158394. A duplicate copy of this paper is enclosed.

Dated: September 19, 2005

Respectfully submitted,

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